

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE United States Patent and Trademark Office Address: COMMISSIONER FOR PATENTS P.O. Box 1450 Alexandria, Virginia 22313-1450 www.uspto.gov

DATE MAILED: 03/22/2006

PPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO
10/812,416	03/30/2004	Tetsuzo Ueda	43890-673	1264
7590 03/22/2006			EXAMINER	
MCDERMOTT, WILL & EMERY			CRANE, SARA W	
600 13th Street, N.W. Washington, DC 20005-3096			ART UNIT	PAPER NUMBER
			2811	

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Amplicanto				
	Application No.	Applicant(s)				
Office Assistant October 1991	10/812,416	UEDA ET AL.				
Office Action Summary	Examiner	Art Unit				
	Sara W. Crane	2811				
The MAILING DATE of this communication app Period for Reply	ears on the cover sheet with the c	orrespondence address				
A SHORTENED STATUTORY PERIOD FOR REPLY WHICHEVER IS LONGER, FROM THE MAILING DA - Extensions of time may be available under the provisions of 37 CFR 1.13 after SIX (6) MONTHS from the mailing date of this communication. - If NO period for reply is specified above, the maximum statutory period w - Failure to reply within the set or extended period for reply will, by statute, Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).	ATE OF THIS COMMUNICATION 36(a). In no event, however, may a reply be time rill apply and will expire SIX (6) MONTHS from cause the application to become ABANDONEI	l. ely filed the mailing date of this communication. 0 (35 U.S.C. § 133).				
Status						
1) Responsive to communication(s) filed on 06 Ja	nuary 2006.					
2a) ☐ This action is FINAL . 2b) ☒ This	This action is FINAL . 2b)⊠ This action is non-final.					
	Since this application is in condition for allowance except for formal matters, prosecution as to the merits is					
closed in accordance with the practice under E	x parte Quayle, 1935 C.D. 11, 45	3 O.G. 213.				
Disposition of Claims						
4) ⊠ Claim(s) <u>1-39</u> is/are pending in the application. 4a) Of the above claim(s) is/are withdraw 5) □ Claim(s) is/are allowed. 6) ⊠ Claim(s) <u>1-39</u> is/are rejected. 7) □ Claim(s) is/are objected to. 8) □ Claim(s) are subject to restriction and/or	vn from consideration.					
Application Papers						
9) The specification is objected to by the Examiner 10) The drawing(s) filed on is/are: a) access Applicant may not request that any objection to the of Replacement drawing sheet(s) including the correction in the original of the correction of the original o	epted or b) objected to by the Eddrawing(s) be held in abeyance. See ion is required if the drawing(s) is obj	e 37 CFR 1.85(a). ected to. See 37 CFR 1.121(d).				
Priority under 35 U.S.C. § 119						
 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No. 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. 						
Attachment(s) 1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date	4) Interview Summary Paper No(s)/Mail Da 5) Notice of Informal P 6) Other:					

Application/Control Number: 10/812,416

Art Unit: 2811

DETAILED ACTION

Claim Rejections - 35 USC § 112

Claims 1-5 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for an AIN film having 4H-polytype, does not reasonably provide enablement for BInAIGaN. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to practice the invention commensurate in scope with these claims.

See reasons of record in the Office action of 14 December 2005. Applicant responds that "the consecutive 4H-polytype BInAlGaN growth is well-known in the art for any alloy composition as long as the lattice mismatch is relatively small." There is no evidence to support this statement in the file. (Attorney arguments are not evidence.) Applicant needs to submit some sort of evidence to support the statement - a reference teaching or a declaration, for example.

(Also, if this growth is well-known, why would these claims be patentable to Applicant?)

Claims 6-39 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Art Unit: 2811

See reasons of record in the previous Office action. Applicant has submitted arguments in response to this rejection, relying on the reference teaching of N. Kuroda et al. Examiner cannot find this reference in the file, and it doesn't seem to be on any of the 1449 forms submitted by Applicant. If this reference is to be relied upon for enablement, a copy should be made of record. As noted above, attorney arguments are not evidence.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to S. Crane, whose telephone number is (571) 272-1652.

The supervisor for Art Unit 2811, Eddie Lee can be reached on (571) 272-1732. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sara W. Crane Primary Examiner

Art Unit 2811